

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO ex rel.
STATE ENGINEER,

Plaintiff,

vs.

CIVIL NO. 69-7941 BB/LFG

ROMAN ARAGON, et al.,

RIO CHAMA ADJUDICATION

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court on Jose Leandro Martinez and Magdalena L. Martinez' Motion to Substitute Parties. [Doc. 10801].

Jose Leandro Martinez and Magdalena L. Martinez ("Movants") state that they own a 28-acre tract of land of which approximately 19.5 acres have appurtenant water rights. In 1962, the New Mexico District Court for Rio Arriba County entered a final decree adjudicating water rights to Corlinda H. Lujan and her late husband, José Onesimo Lujan, Jr.,¹ on 42.2 acres of land. [Doc. 10828]. Movants claim their 19.5 irrigated acres are part of the 42.2 acre tract and ask the Court to substitute them for Corlinda Lujan and José Onesimo Lujan, Jr., with respect to the 19.5 acre tract pursuant to Rule 25 of the Federal Rules of Civil Procedure.

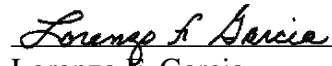
Rule 25(c) of the Federal Rules of Civil Procedure provides: "If an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party." Movants describe the chain of title for the 19.5 acre tract from when it was patented to José Onecimo Lujan, Sr. to 1964 when it was conveyed to Movants. Nothing in the chain of title as described by Movants indicates

¹Movants spell Corlinda H. Lujan's late husband's name as Jose Onisimo Lujan. The Court will use the spelling provided in Corlinda H. Lujan's response.

that José Onesimo Lujan, Jr. and Corlinda Lujan conveyed any interest to Movants. The Court will deny the motion to substitute Movants for José Onesimo Lujan, Jr. and Corlinda Lujan.

In their reply, Movants claim they own certain water rights and argue that they should be made parties to this case to satisfy constitutional notice and due process requirements. [Doc. 10839]. New Mexico water law provides that in water rights adjudications, all water rights claimants “shall be made parties.” N.M. Stat. Ann. § 72-4-17. Movants Jose Leandro Martinez and Magdalena L. Martinez are joined as parties defendant to these proceedings.

IT IS SO ORDERED.


Lorenzo F. Garcia
United States Magistrate Judge